

The Rules and Regulations of the Office of Commissioner of Insurance are hereby amended by the adoption of Chapter 120-2-89 entitled "Surplus Lines Insurance Regulation."

## **Chapter 120-2-89**

### **Surplus Lines Insurance Regulation**

#### **Section**

- 120-2-89-.01 Statutory Authority.
  - 120-2-89-.02 Purpose.
  - 120-2-89-.03 Delivery of Standard Disclosure Brochure.
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#### **§ 120-2-89 -.01 Statutory Authority**

This Regulation is made and promulgated by the Insurance Commissioner pursuant to the authority set forth in Section 33-2-9 and Section 33-5-26 of the Georgia Insurance Code.

Authority--O.C.G.A. §§33-2-9, 33-5-26.

#### **§ 120-2-89-.02 Purpose**

The purpose of this Regulation is to establish rules for the delivery of a standard disclosure form or brochure explaining surplus lines coverage, which shall be attached to or made a part of any surplus line policy in which the policy premium is \$5,000.00 per annum or less.

Authority--O.C.G.A. §§33-2-9, 33-5-26.

#### **§ 120-2-89-.03 Delivery of Standard Disclosure Brochure**

Pursuant to Code Section 33-5-26(b), no surplus lines policy or certificate with an annual premium of \$5,000.00 per annum or less, shall be delivered in this state without being accompanied by a standard form explaining surplus lines insurance.

(A) The standard form referred to in this Section shall be identical in format and content to the document attached hereto as Appendix A.

(B) It shall be the responsibility of the licensed surplus lines broker to ensure that a copy of the standard disclosure brochure is delivered to the policyholder with the policyholder's copy of the policy.

Authority--O.C.G.A. §§33-2-9, 33-5-26.

#### **§120-2-89-.04 Penalties**

Any insurer or surplus lines broker failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Authority--O.C.G.A. §§33-2-9, 33-5-26.

#### **120-2-89-.05 Severability**

If any provision of this Regulation Chapter or the application of it to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the rules herein which can be given effect without the invalid portion. To that end, the provisions of this rule are declared to be severable.

Authority--O.C.G.A. §§33-2-9, 33-5-26.

## APPENDIX A

### FREQUENTLY ASKED QUESTIONS ABOUT YOUR SURPLUS LINES POLICY

Your broker has placed the insurance you requested in the "surplus lines market" with one or more surplus lines insurers. By definition, such surplus lines insurers are not licensed in the state, but this does not mean that the transaction is not regulated. The surplus lines market is an insurance marketplace that is established for the purpose of insuring unique or hard to place risks. Some of the rules that apply to surplus lines insurance policies and surplus lines insurance companies differ from those that govern coverage obtained from insurance companies licensed in your state. In order for you to better understand the surplus lines market and the rights you have in a surplus lines transaction, the following material is provided.

Please read this brochure carefully, and should you have any questions after reading the material, do not hesitate to ask your broker. If you wish further information, please contact the Regulatory Services Division, Room 604 West Tower, 2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334 or (404) 656-2074 or toll free at (800) 656-2298 (request Regulatory Services Division).

#### WHAT IS A SURPLUS LINES POLICY?

A surplus lines policy is a policy placed with an insurer that is not licensed (or 'admitted') in this state, but is nonetheless eligible to provide insurance on property or liability insurance protection to citizens of this state through specially licensed agents or brokers known as surplus lines brokers.

#### WHY AM I GETTING COVERAGE FROM A SURPLUS LINES INSURER?

Your agent or broker may have been unable to obtain the coverage you requested from insurance companies licensed in the state, but was able to obtain coverage from an eligible surplus lines insurance company. The reason for your agent or broker's action is that the risk or property for which you sought coverage may be unique or have certain risk characteristics that caused licensed insurers to decline to write the policy. In circumstances where licensed insurers will not write the risk, your broker is authorized by state law or regulation to obtain the coverage from a 'surplus lines' insurer.

#### SINCE THE SURPLUS LINES INSURER IS UNLICENSED, IS THE TRANSACTION UNREGULATED?

Surplus lines transactions are regulated by state laws that require that surplus lines policies be procured only by specially licensed brokers. These are called surplus lines brokers and they are authorized to transact business with certain unlicensed insurers that meet financial and other eligibility standards set by the state. These insurers are known as surplus lines insurers. Your agent may have worked with a licensed surplus lines broker in securing your policy. Alternatively, your agent may hold a surplus lines broker's license.

#### IS MY SURPLUS LINES POLICY COVERED BY THE STATE GUARANTY OR INSOLVENCY FUND?

No. There is no guaranty fund coverage for surplus lines policies. The guaranty fund, which provides payments in the event that your insurance company becomes insolvent, only covers policies of licensed insurers.

#### HOW IS THE RATE OR PRICE OF A SURPLUS LINES POLICY DETERMINED?

The rate or premium charged for a surplus lines policy is determined by the surplus lines insurer. As unlicensed insurers, surplus lines insurers do not file their rates or premiums with the state for review or approval.

#### DOES THE GEORGIA DEPARTMENT OF INSURANCE REVIEW OR APPROVE THE TERMS AND CONDITIONS OF THIS POLICY?

Pursuant to O.C.G.A. §33-5-21.1, policies of surplus lines insurers are not reviewed or approved by the Georgia Department of Insurance.

**CAN MY POLICY BE RENEWED OR EXTENDED?**

Your surplus lines policy may or may not be renewed or extended when the policy expires. An extension of the policy coverage will be dependent upon the continued unavailability of the coverage from insurers licensed in this state and the willingness of the surplus lines insurer to continue to accept the risk. Since a surplus lines policy is generally not subject to the same notice requirements as a policy issued by a licensed insurer, notice of a premium increase for a new policy term or the company's intent not to extend the policy at the same terms and conditions might not be provided until close to the date the policy expires. Therefore, you should keep in contact with your agent or broker, particularly as the expiration of the policy term nears, to ascertain the status of the policy and to assure continuity of coverage.